



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Lance W. Russell
Serial No. : 09/971,135
Filed : October 4, 2001
Title : SHARED MEMORY COUPLING OF NETWORK INFRASTRUCTURE
DEVICES

Art Unit : 2188
Examiner : Lane, John A.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ADVISORY ACTION

I. Examiner's repeated requests for information

The Examiner has requested "for references qualifying as prior art under 102 and 103 with respect to the independent and dependent claim limitations." Applicant, however, already has submitted such references in the Information Disclosure Statements that were filed on October 4, 2001, and November 18, 2004, and therefore Applicant believes that the Examiner's request in this regard has been fully responded to. In addition, the Information Disclosure Statement that was filed on November 18, 2004, followed the Examiner's initial request for information under 37 CFR 1.105. Therefore, the Examiner's statement that "The Examiner's simple request to ask the attorney/inventor of record for prior art has repeatedly gone unanswered" is believed to be erroneous.

MPEP § 704.11 provides that "a requirement under 37 CFR 1.105 may only be made when the examiner has a reasonable basis for requiring information."

The Examiner has stated that "the fact that a reference applicable to the claims existed and was known to Applicant prior to the final Office action supports the Examiner's request for prior art." However, this reference was cited in the Information Disclosure Statement that was filed on November 18, 2004, which is prior to the final Office action. The Examiner has

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commission for Patents, PO Box 1450, Alexandria, VA 22313-1450 on:

April 22, 2005

Date

(Signature of person mailing papers)

Edouard Garcia

(Typed or printed name of person mailing papers)

acknowledged that this Information Disclosure Statement was received by the Office. It appears that the Examiner has assumed that Applicant has failed to comply with 37 CFR 1.56. However, there is no basis for such an assumption and, therefore, such an assumption is not a reasonable basis for requiring information under 37 CFR 1.105.

The Examiner additionally has based his request for information under 37 CFR 1.105 by inferring from the Background section of the application that applicant likely has access to information that is necessary to a more complete understanding of the invention and its context but is not available to the Examiner. In particular, the Examiner has stated that (bullets added):

Furthermore, most of the background art (other than patent 6,157,955) may be based on printed publications or common knowledge. The Examiner has no way of knowing without input from Applicant. For example, the background section discusses prior art that appears particularly relevant to new claims 25-29:

- [N]etwork infrastructure services conventionally are implemented as one or more software modules executing on general-purpose computers
and;
- A general-purpose computer typically provides a complete operating environment for network infrastructure applications, including all of the services provided by the operating system.
and;
- New network infrastructure applications may be loaded and, generally, existing network infrastructure applications may be updated on a general-purpose computer simply by loading the new application or application update

The above background art appears to discuss a network infrastructure function/network service application/service module (kernel) that can be loaded into the computer to update or replace existing software modules

It is unclear why the Examiner has excluded U.S. Patent No. 6,157,955 from consideration as an example of a prior art reference on which the bulleted statements are based, especially since this patent teaches the information contained in each of these statements:

- U.S. Patent No. 6,157,955 discloses that: "General Purpose computers, such as PCs running NT/Windows or workstations running Solaris/HP-UX, etc. are a common method for deploying network infrastructure applications." (Col. 1, lines 52-55)
- U.S. Patent No. 6,157,955 discloses that: "The advantages of running the application on a general purpose computer include: a full development environment; all the OS services (IPC, file system, memory management, threads, I/O etc.)..." (Col. 1, line 66, through col. 2, line 2)
- U.S. Patent No. 6,157,955 discloses that "There are, however, a couple of key issues with special function appliances. For example, they are not expandable by their very nature. If the network manager needs a new application, he/she will need to procure a new appliance. *Contrast this with loading a new application on a desktop PC.* In the case of a PC, a new appliance is not needed with every new application." (Col. 2, lines 61-67; emphasis added)

Thus, all of the points in the Examiner's request for a "discussion of prior art" are disclosed in U.S. Patent No. 6,157,955, which was submitted with the Information Disclosure Statement that was filed with the application and was considered by the Examiner. Therefore, Applicant believes that the Examiner's request in this regard has been fully responded to.

For the reasons explained above, all of the Examiner's requests for information under 37 CFR 1.105 are believed to have been satisfied by Applicant's prior submissions. Accordingly, there does not appear to be any reasonable basis for the Examiner to continue to request information under 37 CFR 1.105, in which case the Examiner is requested to withdraw his request for information in accordance with MPEP § 704.11.

II. Information Disclosure Statement

In the Advisory action dated April 1, 2005, the Examiner acknowledged receipt of the Form PTO 1449 that was submitted with the Information Disclosure Statement that was filed on November 18, 2004. Applicant requests that the Examiner return with the next correspondence an initialed copy of the Form PTO 1449 indicating that all of the cited references have been considered.

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III. Conclusion

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

Date: April 22, 2005



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